

ALAMEDA COUNTY

Audit Report

COURT REVENUES

July 1, 2004, through June 30, 2010



JOHN CHIANG
California State Controller

January 2013



JOHN CHIANG
California State Controller

January 8, 2013

The Honorable Patrick O'Connell
Auditor-Controller
Alameda County
1221 Oak Street, Room 249
Oakland, CA 94612

Pat Sweeten
Court Executive Officer
Superior Court of California,
Alameda County
1225 Fallon Street
Oakland, CA 94612

Dear Mr. O'Connell and Ms. Sweeten:

The State Controller's Office (SCO) audited Alameda County's court revenues for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county underremitted \$5,802,560 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of fines, fees, and penalties by \$55,471
- Underremitted equipment/tag violations by \$5,706,476
- Overremitted 30% of red-light violations by \$97,936
- Underremitted Health and Safety Code bail bonds by \$173,565
- Overremitted domestic violence fees by \$35,016

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2004, through June 30, 2010.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Joe Vintze, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250-5872

Once the county has paid the underremitted Trial Court Improvement Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Sandeep Singh, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Alameda County for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county underremitted a net of \$5,802,560 in court revenues to the State Treasurer because it:

- Underremitted the 50% excess of fines, fees, and penalties by \$55,471
- Underremitted equipment/tag violations by \$5,706,476
- Overremitted 30% of red-light violations by \$97,936
- Underremitted Health and Safety Code bail bonds by \$173,565
- Overremitted domestic violence fees by \$35,016

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that State funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2004, through June 30, 2010. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Municipal Courts, Probation Department, County Central Collection Department, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county

- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions
- Evaluated the accuracy of revenue distribution, using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts
- Tested for any incorrect distributions
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Alameda County underremitted \$5,802,560 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued October 2005 with the exception of a failure to implement distribution priority.

Views of Responsible Officials

We issued a draft audit report on July 3, 2012, and we received a written response form the County Auditor-Controller. The Court did not respond to the draft audit report. The County Auditor-Controller agreed with the results of our audit with the exception of Findings 1, 2 and 4. The County Auditor-Controller's comments are included as an attachment to this report.

Restricted Use

This report is solely for the information and use of Alameda County, the Alameda County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

January 8, 2013

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2004, through June 30, 2010

Description of Finding Account Title ¹ —Code Section	Fiscal Year						Total	Reference ²
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10		
County								
Underremitted 50% excess of fines, fees, and penalties:								
State Trial Court Improvement Fund—GC §77205	\$ 26,847	\$ 26,406	\$ 14,311	\$ 59,390	\$ (10,231)	\$ (61,252)	\$ 55,471	Finding 1
Inappropriate distributions of equipment/tag violation penalties:								
State General Fund	695,142	624,587	722,286	997,847	1,575,572	1,425,707	6,041,141	Finding 2
State Court Facilities Construction Fund—GC §70372(a)	—	—	—	—	(93,536)	(241,129)	(334,665)	Finding 2
Inappropriate distributions of red-light violation bail:								
State Penalty Assessment—PC §1464	(2,558)	(4,514)	(7,488)	(8,485)	(12,872)	(25,053)	(60,970)	Finding 3
State Court Facilities Construction Fund—GC §70372(a)	(1,096)	(1,935)	(3,209)	(3,636)	(9,195)	(17,895)	(36,966)	Finding 3
Inappropriate distributions of Health and Safety Code bail bonds:								
State General Fund—H&SC §11502	28,927	28,927	28,927	28,927	28,927	28,930	173,565	Finding 4
Incorrect distribution of domestic violence fees:								
State Domestic Violence Restraining Order Fund—PC §1203.097	(2,918)	(2,918)	(2,918)	(2,918)	(2,918)	(2,918)	(17,508)	Finding 5
State Domestic Violence Training & Education Program Fund—PC §1203.097	(2,918)	(2,918)	(2,918)	(2,918)	(2,918)	(2,918)	(17,508)	Finding 5
Net amount underpaid (overpaid) to the State Treasurer	<u>\$ 741,426</u>	<u>\$ 667,635</u>	<u>\$ 748,991</u>	<u>\$ 1,068,207</u>	<u>\$ 1,472,829</u>	<u>\$ 1,103,472</u>	<u>\$ 5,802,560</u>	

Legend: H&SC = Health and Safety Code; GC = Government Code; PC = Penal Code

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the remittance advice form TC-31 to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2004, through June 30, 2010**

Month	Fiscal Year					
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	26,847	26,406	14,311	59,390	—	—
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	—	—
February	—	—	—	—	—	—
March	—	—	—	—	—	—
April	—	—	—	—	—	—
May	—	—	—	—	—	—
June	—	—	—	—	—	—
Total underremittances to the State Treasurer	<u>\$ 26,847</u>	<u>\$ 26,406</u>	<u>\$ 14,311</u>	<u>\$ 59,390</u>	<u>\$ —</u>	<u>\$ —</u>

NOTE: Delinquent Trial Court Improvement Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

**Schedule 3—
Summary of Overremittances by Month
July 1, 2004, through June 30, 2010**

Month	Fiscal Year					
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
July	\$ (791)	\$ (1,024)	\$ (1,378)	\$ (1,496)	\$ (10,973)	\$ (29,264)
August	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
September	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
October	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
November	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
December	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
January	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
February	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
March	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
April	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
May	(791)	(1,024)	(1,378)	(1,496)	(10,973)	(29,264)
June	(789)	(1,021)	(1,375)	(1,501)	(10,967)	(29,261)
Total overremittances to the State Treasurer	<u>\$ (9,490)</u>	<u>\$ (12,285)</u>	<u>\$ (16,533)</u>	<u>\$ (17,957)</u>	<u>\$ (131,670)</u>	<u>\$ (351,165)</u>

Findings and Recommendations

FINDING 1— Underremitted 50% excess of qualified fines, fees, and penalties

Alameda County underremitted by \$55,471 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the six fiscal years starting July 1, 2004, and ending June 30, 2010.

Government Code (GC) section 77201(b)(2) requires Alameda County, for its base revenue obligation, to remit \$9,912,156 for fiscal year (FY) 1998-99 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because as a result of the fiscal impact of conditions identified in this report's findings as follows:

- As stated in Finding 2, a number of cities in Alameda County did not properly distribute the equipment/tag violation penalties. This improper distribution caused an overstatement of Additional Parking surcharges by \$509,230. A net of \$509,230 should not have been included in the maintenance-of-effort (MOE) calculation.
- As stated in Finding 3, the Alameda County Central Collection Department did not properly distribute the red-light violation bail. This improper distribution caused overstatements of county base fines by \$2,942 and the county's share of State penalty funds by \$26,131. A net total of \$29,073 should not have been included in the MOE calculation.
- As stated in Finding 6, the Alameda Superior Court did not properly distribute the Traffic Violator School (TVS) bail. This improper distribution caused an understatement of county TVS bail by \$843,178. A net total of \$649,245 should have been included in the MOE calculation.

The adjusted qualified revenues reported for FY 2004-05 were \$13,948,389. The excess, above the base of \$9,912,156, is \$4,036,233. This amount should be divided equally between the county and State, resulting in \$2,018,116 excess due the State. The county has remitted a previous payment of \$1,991,269, causing an underremittance of \$26,847.

The adjusted qualified revenues reported for FY 2005-06 were \$14,375,956. The excess, above the base of \$9,912,156, is \$4,463,800. This amount should be divided equally between the county and State, resulting in \$2,231,900 excess due the State. The county has remitted a previous payment of \$2,205,494, causing an underremittance of \$26,406.

The adjusted qualified revenues reported for FY 2006-07 were \$13,377,688. The excess, above the base of \$9,912,156, is \$3,465,532. This amount should be divided equally between the county and State, resulting in \$1,732,766 excess due the State. The county has remitted a previous payment of \$1,718,455, causing an underremittance of \$14,311.

The adjusted qualified revenues reported for FY 2007-08 were \$14,821,947. The excess, above the base of \$9,912,156, is \$4,909,791. This amount should be divided equally between the county and State, resulting in \$2,454,896 excess due the State. The county has remitted a previous payment of \$2,395,506, causing an underremittance of \$59,390.

The adjusted qualified revenues reported for FY 2008-09 were \$12,449,644. The excess, above the base of \$9,912,156 is \$2,537,488. This amount should be divided equally between the county and State, resulting in \$1,268,744 excess due the State. The county has remitted a previous payment of \$1,278,975 causing an overremittance of \$10,231.

The adjusted qualified revenues reported for FY 2009-10 were \$9,958,897. The excess, above the base of \$9,912,156, is \$46,741. This amount should be divided equally between the county and State, resulting in \$23,370 excess due the State. The county has remitted a previous payment of \$84,622, causing an overremittance of \$61,252.

The overremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2004-05	\$ 26,847
FY 2005-06	26,406
FY 2006-07	14,311
FY 2007-08	59,390
FY 2008-09	(10,231)
FY 2009-10	(61,252)
County General Fund	(55,471)

Recommendation

The county should remit \$55,471 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county also should make the corresponding account adjustments.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The County has the following responses to Finding 1 (Please note that it corresponds to the bullet points in the Draft Audit Report)

- The County respectfully disagrees based on our response included in Finding 2.
- The County agrees to the improper distribution on the red-light violation bail.
- This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

SCO's Response

The SCO disagrees with the county's argument of the Resolution nullifying the need to split equipment tag violation penalties. The Resolution did not specify equipment tag violations, only parking violations.

The SCO also disagrees with the county's argument that the county doesn't have the authorization to demand payment from cities or special districts within the county. The county is capable of either invoicing or offsetting payments to the entity for payment of underremitted fines, penalties, or fees.

The finding remains as stated.

**FINDING 2—
Underremitted
equipment/tag violation
penalties**

County agencies, cities, and special districts in Alameda County did not properly distribute to the State 50% of all qualified equipment/tag violation revenues from July 2004 through June 2010. The various county, city and special districts' accounting staff indicated, in general, that they inadvertently overlooked the required distribution.

Vehicle Code (VC) section 40225(d) allows equipment and registration tag violations to be processed as civil penalties. Upon proof of correction, the civil penalty is reduced to \$10. Civil penalties collected on equipment and tag violations are distributed as follows: 50% to the issuing/processing agency and 50% to the State Treasurer.

VC section 40225(d) states:

Fifty percent of any penalty collected pursuant to this section for registration of equipment violations by a processing agency shall be paid to the county for remittance to the State Treasurer and the remaining 50 percent shall be retained by the issuing agency and processing agency subject to the terms of the contract described in Section 40200.5.

Based on our materiality of the audit, we only quantified this finding from nine out of the twelve county agencies, cities, and special districts tested. The inappropriate distributions for equipment/tag violation penalties affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Additionally, the incorrect distributions had the following effects:

Account Title	Underremitted/ (Overremitted)
State General Fund	\$ 6,041,141
State ICNA Account–GC §70372(a)	(223,110)
State Court Facilities Construction Fund–GC §70372(a)	(111,555)
County General Fund	(509,230)
County Courthouse Construction Fund	(381,923)
County Criminal Justice Construction Fund	(381,923)
City of Oakland	(2,902,718)
Alameda Sheriff's Office	(1,168,329)
City of Hayward	(112,855)

Account Title	Underremitted/ (Overremitted)
AC Transit	(84,940)
City of Alameda	(68,018)
City of Fremont	(61,771)
UC Berkeley	(23,915)
CSU East Bay	(10,067)
City of Berkeley	(787)

Recommendation

The county should remit \$5,706,476 to the State Treasurer and report on the remittance advice form (TC-31) the following: an increase of \$6,041,141 to the State General Fund, a decrease of \$223,110 to the State ICNA Fund–GC section 70372(a) and a decrease of \$111,555 to the State Court Facilities Construction Fund–GC section 70372(a). The county also should inform other cities and special districts within its limits of the statutory distribution requirements for equipment/tag violation penalties. The county agencies, cities, and special districts listed above should make redistributions for the period of July 2010 through the date the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The County Auditor-Controller argues that “the finding relates to equipment/tag violations issued to parked vehicles (Same violations issued to moving vehicles are handled by the court), and is addressed to Alameda County. Neither the State Auditor nor Alameda County has found any statute authorizing the County to demand other citing agencies, not within the County’s jurisdiction, to pay the State via the County any under-remittances noted in the finding. Vehicle Code 40225 (d) states, “penalty collected. . . shall be paid to the county for remittance to the State Treasurer.” The Code does not say that the County is responsible for the collection. It merely says that the County remits to the State what is collected.”

The County agrees that the equipment Tag Violation penalties should be split 50-50 between the issuing agency and the States. However, the county disagrees that the late fees should also be split as a matter of law under VC Section 40225(d). It also states that the county Sheriff Office has been assessing 100% of the penalty as late fee based on a 2007 county board resolution #R-2007-471. As a result, the Sheriff department should be able to keep all the late fees imposed on equipment tag violation cases.

SCO's Response

By statute, the State Controller is required to “superintend the fiscal concerns of the State” and to “direct and superintend the collection of all money due the State” (Government Code sections 12410 and 12418).

Additionally, the State Controller is required by statute to establish a uniform accounting system of audits so that all fines, penalties, forfeitures and fees assessed by courts and probation departments are appropriately disbursed and uniformly accounted for.

The objective of a court revenue audit is to determine if the county completely and accurately remitted court revenues in a timely manner to the State Treasurer. The county is capable of collecting the funds noted in the finding by informing the cities, county departments, and special districts of their shortages by either invoicing or offsetting payments to the entity.

After reviewing County Board of Supervisors Resolution #R-2007-471, the SCO deemed that it is not applicable to the Equipment Tag Violation cases. In Attachment A, all of the parking violation codes are listed except for equipment tag violation code sections VC 4000, VC 5200, and VC 5204. Therefore, the Board Resolution is intended for all of the regular parking violations, and not for the equipment tag violation cases.

The finding remains as stated.

**FINDING 3—
Distribution of 30% of
red-light bail not made to
arresting agencies**

Alameda County Central Collection Department did not distribute 30% of the red-light violation bail to the arresting agencies. The errors occurred because the county's accounting system has not been programmed to comply with the statutory requirements affecting the distribution of red-light bail.

Penal Code (PC) section 1463.11 requires 30% of base fines, State and county penalties (PC sections 1463 and 1464, GC section 76100, respectively) pursuant to red-light violations, to be distributed to the general fund of the county or city in which the offense occurred.

Incorrect distributions for red-light cases affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Additionally, the incorrect distributions had the following effects:

Account Title	Underremitted/ (Overremitted)
State Penalty Fund–PC §1464	\$ (60,970)
State Court Facilities Construction Fund	(36,966)
County General Fund	(91,023)
City of San Leandro	44,105
City of Emeryville	41,275
City of Oakland	39,779
City of Hayward	25,860
City of Fremont	14,635
City of Union City	10,458
City of Newark	8,993
City of Berkeley	3,854

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$97,936 and report on the remittance advice form (TC-31) the following: a decrease of \$60,970 to the State Penalty Assessment–PC 1464 and a decrease of \$36,966 to the State Court Facility Construction Fund–GC section 70372(a). The county also should implement other adjustments noted above to comply with statutory requirements for red-light violation bail distribution. The county should make redistributions for the period of July 2010 through the date on which the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The County Auditor-Controller agrees with the audit finding.

SCO's Response

The county agreed with the finding.

**FINDING 4—
Incorrect distributions
of Health and Safety
Code bail bonds**

Alameda County underremitted the State's share of controlled substance revenues from bail bond forfeitures for FY 2004-05 through FY 2009-10. The revenues, after deducting the allowable 2% automation fee, should have been applied to a special distribution under Health and Safety Code (H&SC) section 11502. The error occurred because the county used a list of different violation codes for the H&SC bail bonds, and none of them were programmed correctly to distribute the H&SC bail bond forfeitures in the Columbia Ultimate Business Systems (CUBS).

PC section 1463.001(b)(1) requires that base fines subject to specific distribution be distributed to the specified funds of the State or local agency.

H&SC section 11502 requires that controlled substance bail bond revenue be distributed in the following manner: 75% to the State General Fund and 25% to the county or city, depending on whether the arrest took place in the county or city.

The incorrect distributions had the following effects:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
State General Fund	\$ 173,565
Sheriff–OMC	1,845
Sheriff–BMC	75
Alameda County	(53,854)
City of Oakland	(73,421)
City of Berkeley	(15,232)

<u>Account Title</u>	<u>Underremitted/ (Overremitted)</u>
City of Livermore	(7,751)
City of Fremont	(8,343)
City of Dublin	(7,398)
City of Alameda	(2,961)
City of Albany	(2,760)
City of Hayward	(2,094)
City of Union City	(783)
City of Newark	(632)
Bay Area Rapid Transit (BART)	(255)

Recommendation

The county should remit \$173,565 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$173,565 to the State General Fund–H&SC section 11502. The county also should make redistributions for the period of July 2010 through the date on which the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The County agrees that the distributions of the Health and Safety Code bail bonds were incorrect and has since corrected the problem. However, the county disagrees with the SCO's measurement of the finding. County considers the bail bond cases delinquent and should be subject to the collection cost.

SCO's Comment

The reason the collection costs are unallowable is because the county could not provide any actual expense reports related to the collections of bail bond cases.

Per Judicial Council of California's Guidelines and Standards for cost recovery, the county should operate its comprehensive collection program as a separate and distinct revenue collection activity. The county should provide documents of the related costs of collection on the qualifying revenues. However, the county uses a 30% across-the-board deduction rate from all delinquent cases in its comprehensive collection program. The SCO deemed this cost recovery method to be appropriate.

At this time, SCO will not disqualify the entire comprehensive collection program due to the fact that substantial costs were incurred and the collection rate used was reasonable. Also, we allowed the county to deduct its collection costs for the bail bond cases. We have revised our questioned costs from \$282,396 to \$173,565 to reflect the acceptance of costs.

However, we recommend that the county's collection department adhere to the Judicial Council of California's Guidelines and Standards to properly operate its comprehensive collection program.

The finding remains as stated.

**FINDING 5—
Incorrect distributions
of domestic violence
fees**

Alameda County did not correctly distribute domestic violence fees, which caused overstatements of the state domestic violence fees. The error occurred because the county did not update its accounting system to implement the new regulatory requirements regarding the distribution of domestic violence fees.

PC section 1203.097(a)(5) requires a \$400 minimum fee as a condition of probation in domestic violence cases. Two-thirds of that should be distributed to the County Domestic Violence Fund. The remaining one-third should be split evenly between the State Domestic Violence Restraining Order Fund and the State Domestic Violence Training and Education Program.

Failure to properly distribute domestic violence fees affected the revenues reported to the State. Additionally, the incorrect distributions had the following effects:

Account Title	Underremitted/ (Overremitted)
State Domestic Violence Restraining Order Fund— PC §1203.097	\$ (17,508)
State Domestic Violence Training and Education Program— PC §1203.097	(17,508)
County Domestic Violence Fee—PC §1203.097	35,016

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$35,016 and report on the remittance advice form (TC-31) a decrease of \$17,508 to the State Domestic Violence Restraining Order Fund—PC section 1203.097 and a decrease of \$17,508 to the State Domestic Violence Training and Education Program—PC section 1203.097. The county should make redistributions for the period of July 2010 through the date on which the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The county agreed with the audit finding.

SCO's Response

The county agreed with the finding.

**FINDING 6—
Incorrect distribution of
traffic violator school
(TVS) bail**

The Alameda Superior Court did not properly distribute TVS bail from July 2004 through June 2010. The \$1 each for the Criminal Facility Construction Fund and the Courthouse Construction Fund were incorrectly deducted from the entire county TVS bail. It should have been deducted from 23% of the county share of TVS bail only. The errors occurred because the court has not properly programmed its accounting system to comply with the statutory requirements affecting the distribution of TVS bail.

Government Code section 77205 provides that . . . in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997 . . . the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund.

Failure to properly distribute TVS bail affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1) by a net total of \$649,245.

Recommendation

The court should revise its distribution formula to comply with statutory requirements for TVS bail distribution. The court also should make redistributions for the period of July 2010 through the date the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The finding does not affect the County Auditor-Controller's Office.

SCO's Response

The finding remains as stated.

**FINDING 7—
Incorrect distribution of
red-light non-TVS fines**

The Alameda Superior Court did not properly distribute the red-light, non-TVS county arrest fines. Three court branches—Alameda, Fremont, and Pleasanton—incorrectly distributed red-light county arrest cases in the same way as city arrest cases. The error occurred because the required distribution was inadvertently overlooked.

PC section 1463.001 requires that 100% base fines from the county arrest cases be distributed to the County General Fund.

GC section 77205 requires that 75% of revenues deposited pursuant to PC section 1463.001 shall be included in the annual MOE calculation for the State Trial Court Improvement Fund.

The incorrect distributions for red-light county arrest cases affected the revenues included in the MOE calculation, pursuant to GC section 77205, and caused an understatement to the State Trial Court Improvement Fund. A redistribution of the effects did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts. However, if this practice continues, a material understatement may occur during future audit periods.

Recommendation

The court should implement adjustments noted above to comply with statutory requirements for red-light non-TVS county arrest cases. The court also should make redistributions for the period of July 2010 through the date on which the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

This finding does not affect the County Auditor-Controller's Office.

SCO's Response

The finding remains as stated.

FINDING 8— Incorrect distributions of DUI fines

The Alameda County Central Collection Department did not correctly distribute the driving-under-the-influence (DUI) fines from FY 2004-05 through FY 2009-10. The fines were either not distributed or were taken out of the total bail instead of the base fine portion only. The fines should be distributed in full amount out of the base fine portion of the bail regardless of any reductions to it. Also, in some cases, 100% of the total bail was distributed entirely to the county or city base fines. The errors occurred because the county's CUBS system could not distribute DUI fines correctly.

PC section 1463 requires that all fines and forfeitures imposed and collected for crimes shall be distributed in accordance with PC section 1463.001.

PC section 1463.001 requires that all fines collected be distributed to base fines, state penalties, local penalties, special penalties, and service charges.

PC section 1463.14(a) requires that a \$50 fee be distributed from the DUI and reckless driving base fines to county Lab Fund.

PC section 1463.16 requires that a \$50 fee be distributed from the DUI and reckless driving base fines to county Alcohol Program Fund.

PC section 1463.18 requires that a \$20 fee be distributed from the DUI base fine to the State Restitution Fund.

Failure to properly distribute DUI fines affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Also, the county and city base fines were overstated, and state and local penalty funds were understated. However, a redistribution of the effects did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The county should revise the CUBS system to comply with statutory distribution requirements for DUI fines.

County Auditor-Controller's Response

The county agreed with the audit finding.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

SCO's Response

The finding remains as stated.

FINDING 9— Incorrect distribution of controlled substance fines

The Alameda Superior Court incorrectly distributed controlled substance violation fines from FY 2004-05 through FY 2009-10; 75% of the base fine portion was not distributed to the State General Fund pursuant to H&SC section 11502. The error occurred because the Superior Court's accounting system was not correctly programmed to distribute controlled substance fines.

H&SC section 11502 requires that controlled substance fines be distributed in the following manner: 75% to the State General Fund and 25% to the county or city, depending on whether the arrest took place in the county or city.

Failure to distribute controlled substance revenues correctly caused an understatement to the State General Fund and overstatements of county and city base fines. However, a redistribution of the effect did not appear to be material.

Recommendation

The superior court should revise its distribution formula to comply with statutory distribution requirements of controlled substances revenues. It also should make redistributions for the period of July 2010 through the date on which the current system is revised.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

This finding does not affect the County Auditor-Controller's Office.

SCO's Response

The finding remains as stated.

**FINDING 10—
Incorrect distribution
of fish and game fines**

The Alameda Superior Court did not correctly distribute the fish and game fines for FY 2004-05 through FY 2009-10. Fish and game fines were not split 50/50 between the county and State. Also, the court did not impose a \$15 secret witness program assessment for Fish and Game Code (F&GC) violations where the defendant failed to produce in court a fishing license. The error occurred because the court's accounting system was not programmed correctly to distribute fish and game fines. This is a repeat finding from the prior audit.

F&GC section 13003 requires a 50/50 split between the county and State for any fines collected pursuant to this section.

F&GC section 12021 requires a \$15 secret witness fee to be imposed and distributed to the State Fish and Game Preservation Fund.

Failure to properly distribute fish and game revenues caused the State Fish and Game Preservation Fund to be understated. However, a redistribution of the effect did not appear to be material.

Recommendation

The court should change its distribution formulas for fish and game fines to comply with the statutory requirements.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

This finding does not affect the County Auditor-Controller's Office.

SCO's Response

The finding remains as stated.

**FINDING 11—
Failure to implement
distribution priority**

The Alameda County Central Collection Department did not appropriately prioritize its installment payments in a manner that gave a distribution priority to civil assessment and installment fees over fines, penalties, and restitution. The error occurred because the computer system was not programmed properly to allow prioritization in the distribution sequence of installment payments. County staff indicated that its accounting system has been properly programmed in FY 2010-11.

PC section 1203(1)(d) requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims
2. 20% State surcharge
3. Fines, penalty assessments, and restitution fines
4. Other reimbursable costs

Any administration fees should be included within Category 4, other reimbursable costs.

Failure to make the required priority distribution causes distributions to the State and county to be inaccurately stated. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The county should take steps to establish formal procedures to ensure that all installment payments are distributed in accordance with the statutory requirements under PC section 1203(1)(d).

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The county agreed with the audit finding.

SCO's Response

The finding remains as stated.

**FINDING 12—
Failure to properly
distribute multiple
violations**

The Alameda County Central Collection Department's CUBS system failed to distribute multiple violations within the same case. The system could only recognize and distribute the total bail amount collected to the first violation code input into the system. The error occurred because the CUBS system cannot handle the complexities of the statutory distribution requirements for multiple violations.

PC section 1463.001 requires that all fines collected shall be distributed to base fines, state penalties, local penalties, special penalties, and service charges.

Failure to properly identify and distribute each violation on the same case caused special revenues and service charges to be understated. However, a redistribution of the effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The county should take steps to establish formal procedures to ensure that all violations on the same case are properly identified and distributed in accordance with the statutory requirements under PC section 1463.001.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

The county agreed with the audit finding.

SCO's Response

The finding remains as stated.

**FINDING 13—
Deficiency in control
over court records**

During our court revenue audit in the Alameda Superior Court, we noted one particular fraud case involving several Fremont Court employees who were able to alter or delete all types of court case records in exchange for personal monetary gains. According to the Alameda Court Finance Director, two former Fremont Court employees were prosecuted on charges of destroying court records, making fraudulent computer entries, and conspiring to commit fraudulent acts. In addition, three more employees currently are under investigation. An undisclosed number of cases had been either deleted or altered. The monetary effect still is unknown. We were informed that the Alameda Superior Court has implemented additional internal control procedures since the discovery of fraud to prevent similar incidents in the future.

The Administrative Office of the Courts' (AOC) procedure manual states that any deviations from the manual should be documented in the local court's operations and procedures manual. However, we were unable to locate any procedures for deleting or altering traffic dockets in the AOC manual. There is no local operations manual. Also, we were unable to obtain documentation of additional internal control procedures established after the fraud.

The State Controller's Office generally evaluates internal controls only to the extent necessary to satisfy the objectives of the performance audit. Such procedures are far less extensive than would be required for a financial audit. It should be noted that California courts have not been subject to a financial audit requirement—and therefore a more extensive review of internal controls—since January 1, 1998.

Good internal controls and prudent business practices require that authorization must be properly obtained prior to the alteration or deletion of any court documents.

Recommendation

The Alameda Superior Court should prepare and maintain a local operations and procedures manual that includes procedures for the document controls, particularly over the deletion and alteration of court records.

The Alameda Superior Court, in conjunction with the AOC, should request an independent review of internal controls over its operations.

Superior Court's Response

The Superior Court did not respond to the draft audit report.

County Auditor-Controller's Response

This finding does not affect the County Auditor-Controller's Office.

SCO's Response

The finding remains as stated.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**



ALAMEDA COUNTY
AUDITOR-CONTROLLER AGENCY
PATRICK O'CONNELL
AUDITOR-CONTROLLER/CLERK-RECORDER

October 10, 2012

Jeffrey V. Brownfield
Chief, Division of Audits
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 9425-5874

Dear Mr. Brownfield,

Attached please find Alameda County's response to an audit performed by your staff regarding Alameda County's court revenues for the period of July 1, 2004 through June 30, 2010.

Sincerely,

Steve Manning for

Patrick O'Connell
Auditor-Controller

CC: Steve Manning, Chief Deputy Auditor
Pat Sweeten, Court Executive Officer
Fred Tse, Division Chief
Micki Regan-Silvey, Division Chief

Attachment

Finding 2 - Under-remitted equipment/tag violation penalties

The finding relates to equipment/tag violations issued to parked vehicles (Same violations issued to moving vehicles are handled by the court), and is addressed to Alameda County. Neither the State Auditor nor Alameda County has found any statute authorizing the County to demand other citing agencies, not within the County's jurisdiction, to pay the State via the County any under-remittances noted in the finding. Vehicle Code §40225 (d)¹ states, "penalty collected...shall be paid to the county for remittance to the State Treasurer." The Code does not say that the County is responsible for the collection. It merely says that the County remits to the State what is collected.

On September 7, 2012, Alameda County issued a letter to solicit other citing agencies' responses to the finding and below is a status as of October 8, 2012:

Citing Agency	Amount	Status/Comments
Alameda-Contra Costa Transit District	\$ 84,940	Responding as a third party for an audit between the County and the State, it disagrees with the amount and believes it should be \$60,517. See Exhibit 1.
California State University, East Bay	10,067	Remitted to the court instead of the County. Will rectify. See Exhibit 2.
City of Alameda	68,018	No response
City of Berkeley	787	Neither agreeing nor disagreeing with the finding. It is currently performing an audit of its own.
City of Fremont	61,771	Neither agreeing nor disagreeing with the finding. Needs detailed information from the State Auditors. See Exhibit 3.
City of Hayward	112,855	No response
City of Oakland	2,902,718	Insufficient information to determine a response. See Exhibit 4.
UC Berkeley	23,915	Agrees with the finding. See Exhibit 5.

As to the under-remittance of \$1,168,329 by the County's Sheriff Department, the County respectfully disagrees for the following reasons:

1. 50/50 split of late fees between State and the County's Sheriff Department – The State Auditor cites Vehicle Code §40225 (d) as justification for the split. However, the County's position is that the late fees are not split as a matter of law under this section. As the State Controller's Office recognized in letters dated December 16, 2011 ("Letter") addressed to

¹ §40225 (d) states, "Fifty percent of any penalty collected pursuant to this section for registration or equipment violations by a processing agency shall be paid to the county for remittance to the State Treasurer and the remaining 50 percent shall be retained by the issuing agency and processing agency subject to the terms of the contract described in Section 40200.5."

Scott J. Tepper, "If the late penalty or administrative fee is pursuant to a local ordinance, the city (or local entity) does not have to split this amount with the State." (Letter at p.3.)

The late penalties can only be by local ordinance under the statutory scheme established by section 40225. "An equipment violation entered on the notice of parking violation attached to the vehicle under section 40203 shall be processed in accordance with this article." (Id. (a).). Any violation under sections 4000 for evidence of registration, 5200 for proper display of license plate and 5204 for proper tag attachment and their related "fix-it" tickets "shall be processed pursuant to" section 40225. (Id. (b).)

Section 40203.5 is the only authority for late penalties under the article that encompasses section 40225. The relevant article that covers section 40225 is Article 3 of chapter 1 of Division 17, entitled "Procedure on Parking Violations." As the only authority under that article for late fees, section 40203.5(a) states that "late payment penalties shall be established by the government body of the jurisdiction where the notice of violation is issued." For the Sheriff's Office's jurisdiction, the government body is the Board of Supervisors for the County of Alameda.

The County Sheriff Office has been assessing 100% of the penalty as late fee based on a 2007 County Board Resolution #R-2007-471 authorizing the assessment of a late fee at 100% of the penalty – See Exhibit 6.

(Note: Section 40310², which specifies a late fee of 50%, is unrelated to this finding, because it is governed by Article 1 of Chapter 2 of Division 17 for violations issued to moving vehicles, while section 40225 (d), governed by Article 3 of Chapter 1 of the same Division, is for violations issued to parked vehicles.)

2. Base fine vs. bail amount – Assembly Bill 408 (Stats. 1992, ch. 1244), effective January 1, 1993, revised and recast the procedures for processing and adjudicating parking law violations as administrative offenses subject to a civil penalty. The bill required courts to transfer the process of parking offenses to issuing agencies. Consequently, parking violations have been removed from the Courts and the Uniform Bail and Penalty Schedules.

² Section 40310 states, "The Judicial Council shall annually adopt a uniform traffic penalty schedule which shall be applicable to all **nonparking infractions** specified in this code, unless in a particular case before the court the judge or authorized hearing officer specifies a different penalty. No penalty shall be established for any infraction in an amount, exclusive of any additional penalty levied pursuant to Section 1464 of the Penal Code, in excess of the amount of the maximum fine pursuant to Section 42001 or 42001.5, and penalties shall be set without regard to residence. In case a traffic penalty is not paid within 20 days following mailing of a notice that the penalty has been assessed, a late charge shall be due in the amount of 50 percent of total initial penalty. In establishing a uniform traffic penalty schedule, the Judicial Council shall classify the offenses into four or fewer penalty categories, according to the severity of offenses, so as to permit convenient notice and payment of the scheduled penalty."

Also, Richard J. Chivaro, State's Chief Counsel, in his letter dated December 16, 2011, to Scott J. Tipper, Esq., says, "§40310 allows a city to levy a late penalty and the State receives a portion of this penalty; however, if the late penalty or administration fee is pursuant to a local ordinance, the city does not have to split this amount with the State."

Therefore, it is the County's position that it splits only the base fine for equipment and tag violations issued for parked vehicles under section 40225, although all additional penalties under the Uniform Bail and Penalty Schedules apply to the same violations issued for moving vehicles. Under the statutory scheme and as a practical matter, this must be the case because the County does not and cannot collect the fines outlined in the Uniform Bail and Penalty Schedules as the schedules only apply to moving violations. Only the Courts can impose those fees.

In conclusion, Alameda County respectfully asks the State Controller's Office to:

1. Address the finding to each citing agency because the County is **not** responsible for collecting the under-remittances if any from citing agencies outside of the County's jurisdiction.
2. Recalculate the amount of under-remittance if any in accordance with established statutes and laws.



Alameda-Contra Costa Transit District

David J. Armijo, General Manager

RECEIVED
ALAMEDA COUNTY AUDIT
2012 SEP 26 AM 10:13
SPECIAL AUDIT AND
FIELD ACCOUNTING
DIVISION

September 19, 2012

Patrick O'Connell
Alameda County Auditor-Controller
1221 Oak Street, Rm. 249
Oakland, CA 94612

Dear Mr. O'Connell,

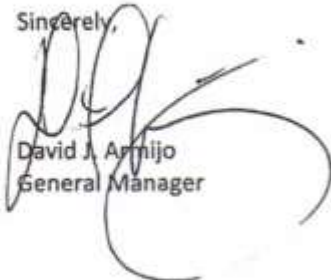
We are in receipt of your letter dated September 7, 2012 regarding the preliminary findings of State Controller's Office, Parking Citation Audit, covering the time period of July 2004 to June 2010.

It is our understanding from the State Controller's Office, Special Audit's Division that the audit and its findings are solely between Alameda County and the State Controller's Office. As such, we welcome the opportunity to respond to the proposed findings as a third party to this audit.

As you know Alameda County contracted with Duncan Solutions Inc. to act as it's agent in the collection of parking citation revenue, and distribution of same to the agencies involved, in the appropriate amounts.

Several meetings occurred with my staff and the Alameda County Sheriff's Department and Duncan Solutions Inc. to review and research information provided by Duncan Solutions on citations written and revenues remitted. The conclusion from those meetings based on the services provided by Duncan Solutions Inc. to Alameda County was that Alameda-Contra Costa Transit District owed \$60,516.75 to the SCO. Duncan concludes that the difference between the amount calculated by Duncan Solution Inc. and the \$84,940 by the SCO, include some ineligible administration and late fees and some accounting reconciliation.

We are prepared to remit to the SCO or to your office whatever the appropriate amount is deemed to be. We appreciate the opportunity to respond to these SCO findings.

Sincerely,

David J. Armijo
General Manager



CALIFORNIA STATE
UNIVERSITY
EAST BAY

Office of the Vice President, Administration
and Finance & Chief Financial Officer
CALIFORNIA STATE UNIVERSITY, EAST BAY
25800 Carlos Bee Boulevard, Hayward, CA 94542-3002
510.885-3803 • 510.885.4745 (fax) • www.csueastbay.edu

September 19, 2012

Mr. Fred Tse, Division Chief
Alameda County Auditor - Controller Agency
1106 Madison Street, Room 431
Oakland CA 94607

RE: State Controller's Office - Court Revenues Audit of Alameda County
July 1, 2004 – June 30, 2010
Under-Remittance of \$10,067 by CSU East Bay

Dear Mr. Tse,

It appears that the campus inadvertently remitted 100% of the license plate and registration tag violations under Vehicle Code section 40225(d) to the Superior Court of Alameda County, instead of remitting 50% directly to Alameda County, as required by above-mentioned vehicle code.

To rectify this situation, we plan to:

- Send a check for \$10,067 to Alameda County by September 30, 2012
- Pursue collection of the funds over-remitted to the Superior Court
- Revise our procedures to better track the remittance distinctions under VC 40225

Please let us know if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Bradley Wells".

Bradley Wells
Vice President, Administration & Finance, CFO
Enclosure

cc: Leroy M. Morishita, President
Maggie Graney, Director of Compliance and Internal Control
Chief James Hodges, University Police Department

THE CALIFORNIA STATE UNIVERSITY

Bakersfield • Channel Islands • Chico • Dominguez Hills • East Bay • Fresno • Fullerton • Humboldt • Long Beach • Los Angeles • Maritime Academy
Monterey Bay • Northridge • Pomona • Sacramento • San Bernardino • San Diego • San Francisco • San Jose • San Luis Obispo • San Marcos • Sonoma
Stanislaus

Alameda County's Response to State's Court Revenues Audit



Finance Department
3300 Capitol Avenue, P.O. Box 5006, Fremont, CA 94537-5006
510 494-4610 *ph* | 510 494-4611 *fax* | www.fremont.gov

RECEIVED
ALAMEDA COUNTY AUDITOR
2012 OCT -4 AM 11:32
AUDITS & AD
SPECIALIZED ACCOUNTING
DIVISION

September 28, 2012

Alameda County Auditor-Controller Agency
1106 Madison Street, Room 431
Oakland, California 94607
ATTN: Fred Tse, Division Chief

RE: State Controller's Office – Court Revenues Audit

Dear Mr. Tse:

This letter is in response to the letter from Patrick O'Connell, Alameda County Auditor-Controller, dated September 7, 2012, providing us with a draft report of the Court Revenues Audit performed by the State Controller's Office. That report disclosed an under-remittance of \$61,771 from equipment/tag violations to Alameda County from the City of Fremont for distribution to the State. We have reviewed the finding, and we can neither confirm nor deny the finding contained in the draft audit report because sufficient information has not been provided to substantiate the alleged underpayment.

In order to validate the information, the City of Fremont will need approximately three to four weeks to complete a thorough investigation of the amount remitted to the County versus the amount owed. It is not the City of Fremont's intention to underpay any remittances that are due; rather, it is our responsibility to insure that the correct amounts are paid.

If you have questions or need additional information, please let me know.

Very truly yours,

A handwritten signature in blue ink that reads "Harriet V. Commons".

Harriet V. Commons
Finance Director/Treasurer
(510) 284-4010

cc: Catherine Chevalier, Finance Operations Manager



RECEIVED
ALAMEDA COUNTY AUDITOR

CITY OF OAKLAND



2012 OCT -8 AM 11:54

CITY HALL AUDITS FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612
SPECIALIZED ACCOUNTING
DIVISION

Office of the City Administrator
Deanna J. Santana
City Administrator

(510) 238-3302
FAX (510) 238-2223
TDD (510) 238-2007

October 1, 2012

Alameda County Auditor-Controller Agency
Attention: Fred Tse, Division Chief
1106 Madison St, Room 431
Oakland, CA 946

Dear Mr. Tse,

The City has received your communication asking that the City review and respond to findings relating to the State Controller's Office Court Revenues Audit of Alameda County for the period of July 1, 2004 to June 30, 2010. You have provided redacted documentation of the Controller's finding relating to its audit of the County that is incomplete and insufficient for the City to perform a meaningful review or formulate a response.

The City is requesting additional information at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Deanna J. Santana".

Deanna J. Santana
City Administrator

ALAMEDA COUNTY BOARD OF SUPERVISORS

** MINUTE ORDER **

The following was action taken by the Board of Supervisors on October 23, 2007

Approved as Recommended ☒ Other ☐

Opened and closed public hearing; approved as recommended

Unanimous ☐ Carson ☐ Lai-Butker ☒ Miley ☐ Steele ☐ Haggerty ☐ - 4
Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

☒ Resolution(s) R-2007-471
☐ Ordinance(s) _____
☐ Contract(s) _____

File No. 22695
Item No. 35

Copies sent to:

John Bates & Paul Liskey

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:
Crystal Hishida Graff, Clerk of the Board
Board of Supervisors

By: _____
Deputy

p:\apm\alameda\mord.doc

AGENDA: 35 October 23, 2007



COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY
399 Elmhurst Street • Hayward, CA 94544-1307
(510) 670-5480

October 10, 2007

Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

Dear Board Members:

**SUBJECT: ADOPTION OF REVISED SCHEDULE FOR PARKING FINES AND
LATE PAYMENT PENALTIES**

RECOMMENDATION:

Adopt Resolution approving proposed revised Schedule for Parking Violation and Late Payment Penalties for parking violations on County roadways in the unincorporated areas of Alameda County.

SUMMARY/DISCUSSION:

State law provides for civil penalties for parking violations. See California Vehicle Code ("CVC") Sections 40200 et seq.

CVC Section 40203.5 provides that the governing body of the jurisdiction where the parking citation was issued shall establish a schedule for penalties for parking violations and late payment penalties. The Section further provides that "to the extent possible, issuing agencies within the same county shall standardize parking penalties."

The Public Works Agency has worked in concert with the Sheriff's Office in revising the County's current schedule for parking violation and late payment penalties for parking violations on County roadways in the unincorporated areas of Alameda County.

The proposed revised Schedule (Exhibit A to the accompanying proposed Resolution) will adjust existing penalties or fines in order to allow the County to make them more consistent with other jurisdictions within the County; to cover parking violation enforcement costs associated with parking violation citations issued within the unincorporated areas and with recovery of penalties related to the citations; and to serve as an effective deterrent.

"To Serve and Preserve Our Community"

Honorable Board of Supervisors
October 10, 2007

Page 2

A survey of neighboring jurisdictions was performed to determine current fines imposed for parking violations in those other jurisdictions. A chart summarizing the information gathered in that survey of other jurisdictions is attached.

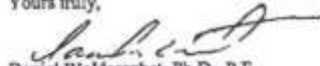
Based on the survey, the new proposed penalties or fines will be consistent or close to the average of the other jurisdictions surveyed.

The new fine schedule notice has been posted pursuant to Section 6062a of the Government Code and was published and posted at least 10 days prior to this meeting.

FINANCING:

No additional appropriation is required to implement this Resolution. There will be no impact to the General Fund.

Yours truly,



Daniel Woldezenbet, Ph.D., P.E.
Director of Public Works

DW/JPB/pr

cc: Susan Muranishi, County Administrator
Patrick O'Connell, Auditor-Controller
Richard Winnie, County Counsel
Dale Amaral, Captain, Sheriff's Office

FOO-TRA-Road Lin Parking Fines - 10-31-07 Agenda

Approved as to Form

RICHARD E. WINNIE, County Counsel

By R. Maule Deputy

THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

RESOLUTION NUMBER: R-2007-471

**ADOPTION OF SCHEDULE FOR PARKING AND
LATE PAYMENT PENALTIES**

WHEREAS, the California Vehicle Code ("CVC") Sections 40200 et seq., establishes certain procedures for the enforcement of civil penalties for violations of any regulation (that is not a misdemeanor) governing the standing or parking of vehicles;

WHEREAS, CVC Section 40203.5 provides that the governing body of the jurisdiction where notices of such violations are issued shall establish a schedule of parking penalties for parking violations and late payment penalties;

WHEREAS, CVC Section 40203.5 also provides that, to the extent possible, the issuing agencies within the same County shall standardize parking penalties.

WHEREAS, staff from the Alameda County Public Works Agency recommends that the County's current schedule for parking violation penalties and late payment penalties for parking violation citations issued within the unincorporated areas of the County be adjusted to bring the amount of such penalties commensurate with law enforcement and administrative staff costs associated with the issuing of citations and collection of penalties; to serve as an effective deterrent and to make the penalties consistent to or close to the average of other jurisdictions within the County;

WHEREAS, notice of the proposed new schedule (Exhibit A hereto) for parking violations and late payment penalties has been posted pursuant to Section 6062a of the Government Code; and

WHEREAS, notice of the time and place of the regular public meeting of the Board of Supervisors at which oral or written presentations could be made, was published and posted at least 10 days prior to said meeting;

NOW, THEREFORE, BE IT RESOLVED, this Board of Supervisors hereby approves the Schedule of Parking Violation and Late Payment Penalties, attached hereto as Exhibit A.

Exhibit A
Fine Schedule for Parking Violations

Section	Description	Fine Amount
CVC 21113 (a)	Parking in a No Parking Zone	40.00
	Parking Over Time Restriction	40.00
	Parking in an Unauthorized Space	40.00
	Parking in or in Front of a Driveway	60.00
	Unauthorized Parking in a Loading Zone	40.00
	Parking Out of a Designated Stall	40.00
	Expired Parking Meter	40.00
CVC 22500	Improper Parking Prohibited	
	Parked in Crosswalk	60.00
	Parking on Sidewalk	60.00
	Double Parking	60.00
	Parking in a Bus Zone	250.00
	Blocking Handicap Access Ramp	300.00
	Parking in Fire Lane	70.00
CVC 22502	Curb Parking - Parallel within 18"	40.00
CVC 22504	Unincorporated Area State Highway	40.00
CVC 22505 (b)	Posted No Parking State Highway	40.00
CVC 22507.8	Unauthorized Parking Handicap Space	300.00
CVC 22507.8 (c)	Parking on Cross hatch Lines	300.00
CVC 22514	Parking Within 15 Feet of Fire Hydrant	70.00
CVC 22515 (a,b)	Unattended Vehicle Requirement	70.00
CVC 22518	Park and Ride Lot Restrictions	40.00
CVC 22520	Parking / Standing on Freeway Restricted	40.00
CVC 22521	Illegal to Park on Railroad Tracks	60.00
CVC 22522	Park Near Sidewalk Access Ramp Prohibited	300.00
CVC 22523	Abandoning Vehicle on Street	450.00
CVC 22551	Street and Alley Parking by Parking Lot	100.00
CVC 26706 (a,b)	Self Operating Windshield Wipers	75.00
CO 6-333.0	Limited Parking School Zone	50.00
CO 6-400.0	Loading Zone County Street or Road	40.00
CVC 22508	Parking on Hills - curb	40.00
CO 10.4.090	Storage of Vehicle - 72 Hour Restriction	70.00
CO 17.04.130	Commercial Vehicle Over 5 Tons - 2 Hour	100.00
CVC 22507.8	No Parking Street Sweeping	40.00
CVC 22507	Residential Permit Parking	40.00
	Late Payment Penalty - Fine Doubled	-

Parking Fines - Exhibit A, 10/07

Parking Fines
Ball Schedule Comparison

Violation	VC Section	Berkeley	Fremont	Hayward	Oakland	San Leandro	San Mateo	Average	Alameda Co	Proposed
Parking in a No Parking Zone	CVC 21113a	86	60	37	36	31	26	42	22	40
Parking Over Time Restriction	CVC 21113a	41	60	30	40	26	35	39	20	40
Blocking Driveway	CVC 21113a	47	60	100	35		35	56	20	60
Parking on Sidewalk	CVC 22507	67	60	54			35	52	30	60
Parallel Parking Within 18" to Curb	CVC 22502a	80	60	31	36		36	43	30	40
Handicap Parking Space Violation	CVC 22507.5	275	275	250	275	270	336	267	275	300
Parking at Fire Hydrant	CVC 22514	47	60	33			30	43	36	70

THE FOREGOING was **PASSED** and **ADOPTED** by a majority vote of the Alameda County Board of Supervisors this 23rd day of October, 2007, to wit:

AYES: Supervisors Carson, Miley, Steele & President Haggerty - 4

NOES: None

EXCUSED: Supervisor Lai-Butker - 1



PRESIDENT, BOARD OF SUPERVISORS

File: 22695
Agenda No: 35
Document No: R-2007- 471



I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Supervisors, Alameda County, State of California

ATTEST:
CRYSTAL HISHIDA GRAFF
Clerk, Board of Supervisors

By: _____
Deputy

v:\genb\456010001\qk.doc

Response to Finding 1 –

Underremitted 50% excess of qualified fines, fees, and penalties

The County has the following responses to Finding 1 (Please note that it corresponds to the bullet points in the Draft Audit Report)

- The County respectfully disagrees based on our response included in Finding 2.
- The County agrees to the improper distribution on the red-light violation bail.
- This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

Response to Finding 2 –

Underremitted equipment/tag violation penalties

Please see attached response to Finding 2 (Pages 7 to 21).

Response to Finding 3 –

Distribution of 30% of red-light bail not made to arresting agencies

Alameda County concurs with this finding and has since corrected the problem.

Response to Finding 4 –

Incorrect distributions of Health and Safety Code bail bonds

The County agrees that the distributions of the Health and Safety Code bail bonds were incorrect and has since corrected the problem. However, the County respectfully disagrees with the underremitted/overremitted amounts for the following reason:

All bail bond accounts referred to Central Collections are considered delinquent. Per Penal Code section 1463.007, "any county or court that implements or has implemented a comprehensive program to identify and collect delinquent fees, fines, forfeitures, penalties, and assessments, . . . , if the base fees, fines, forfeitures, penalties, and assessments are delinquent, may deduct and deposit in the county treasury or in the trial court operations fund the cost of operating that program, . . ." SCO's calculation of the findings did not include Central Collection's cost of recovery. Below, please find the County's calculations of the underremitted/overremitted distribution of Health and Safety Code bail bonds.

Account Title	Underremitted/(Overremitted)	
	SCO Finding	Alameda County
State General Fund	282,396	173,565
Sheriff-OMC	2,743	1,845
Sheriff-BMC	108	75
Alameda County	(198,961)	(53,854)
City of Oakland	(50,926)	(73,421)
City of Berkeley	(12,205)	(15,232)
City of Livermore	(5,861)	(7,751)
City of Fremont	(5,707)	(8,343)
City of Dublin	(4,986)	(7,398)
City of Alameda	(2,136)	(2,961)
City of Albany	(1,790)	(2,760)
City of Hayward	(1,527)	(2,094)
City of Union City	(531)	(783)
City of Newark	(434)	(632)
Bay Area Rapid Transit (BART)	(183)	(255)

Please see below literature from our County Counsel regarding Bail Bonds.

The "bail bond is a contract between the surety and the government whereby the surety acts as a guarantor of the defendant's appearance in court under the risk of forfeiture of the bond." (People v. Accredited Sur. & Cas. Co. (2004) 132 Cal.App.4th 1134, 1138.) "The surety enters a contract with the bailee which encompasses the risk that the bailee will not appear and has charged a fee which presumably is sufficient to provide a profitable enterprise despite occasional forfeitures of bail." (Ibid.) Therefore, the underlying assumption that the bail bond forfeitures are paid in advance is mistaken. The bail bond, also known as the "undertaking", is not paid to the court until there is a forfeiture of the bond and an exoneration of the bond does not apply.

The provisions of Penal Code section 1305 and 1306 govern forfeiture of bail, discharge of the forfeiture, and enforcement of the forfeiture. (City of Los Angeles v. County of Los Angeles (1989) 216 Cal.App.3d 916, 922-23.) Pursuant to section 1305, when a defendant fails to appear, without sufficient excuse, when his or her presence is lawfully required, the Court must declare the bail forfeited. (Pen. Code § 1305, subd. (a)). Within 30 days of forfeiture, the clerk mails a notice of forfeiture to the surety or depositor. (Pen. Code § 1305, subd. (b)). If the defendant is not returned to custody, or

if bail is not otherwise exonerated, within 180 days¹ after the date of mailing of the notice of forfeiture, the Court must enter summary judgment within 90 days against the surety for the amount of the bond plus costs. (Pen. Code § 1306, subd. (a), (c)). When the court enters judgment and provides notice of the entry of the judgment to the surety or the bail bonds company, the judgment is due and must be paid immediately. If it is not paid immediately, the account is delinquent. In fact, if the judgment remains delinquent for over 30 days after the surety receives notice, they may no longer act as a surety for bail bonds. (Pen Code § 1308, subd. (a)). It is at this stage in the process, only after summary judgment has been entered, that Central Collections becomes involved in collecting the judgment on the forfeiture of the bail bond. The only accounts that Central Collections attempts to collect are after the court enters judgment for the County and provides notice to the parties of the entry of the judgment.

Penal Code section 1463.007 states that "any county or court that implements or has implemented a comprehensive program to identify and collect delinquent fees, fines, forfeitures, penalties, and assessments, . . . , if the base fees, fines, forfeitures, penalties, and assessments are delinquent, may deduct and deposit in the county treasury or in the trial court operations fund the cost of operating that program, . . ." (Pen. Code § 1463.007). Accordingly, Central Collections is in compliance with Penal Code section 1463.007 because, as described above, Central Collections only becomes involved in accounts that are delinquent. Central Collections cannot collect the forfeited bail money until after the court enters a judgment for same.

Central Collections also complies with the other components of a comprehensive collection program pursuant to section 1463.007 by: (a) issuing monthly bills or account statements to all debtors; (b) making telephone contact with delinquent debtors to apprise them of their failure to meet payment obligations; (c) issuing warning letters to advise delinquent debtors of an outstanding obligation; (d) requesting credit reports to assist in locating delinquent debtors; (e) accessing the Employment Development Department employment and wage information; (f) generating monthly delinquent reports; (g) participating in the Franchise Tax Board's Interagency Intercept Collections Program; (h) using Department of Motor Vehicle information to locate delinquent debtors; (i) using wage and bank account garnishments; (j) imposing liens on real property and proceeds from the sale of real property held by a title company; (k) filing of a claim or filing of objections to the inclusion of outstanding fines and forfeitures in bankruptcy proceedings; (l) coordinating with the probation department to locate debtors who may be on formal or informal probation; (m) initiating driver's license suspension actions where appropriate; (n) having the capability to accept credit card payments; (o) participating in the Franchise Tax Board's Court-Ordered Debt Collections Program; (p) contracting with one or more private debt collectors; and (q) using local, regional, state, or national skip tracing or locator resources or services to locate delinquent debtors.

¹ If the notice of forfeiture is required to be mailed the 180-day period is extended by five days. (Pen. Code § 1305, subd. (b)).

Because Central Collections is in compliance with all of the requirements of section 1463.007, the costs of the County's comprehensive collection program are properly deducted from the monies received from bail bond forfeitures

**Response to Finding 5 –
Incorrect distributions of domestic violence fees**

Alameda County has corrected its formula for distributing the domestic violence fees in order to comply with the statutory distribution requirements. This correction should prevent any future findings.

**Response to Finding 6 –
Incorrect distribution of traffic violator school (TVS) bail**

This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

**Response to Finding 7 –
Incorrect distribution of red-light non-TVS fines**

This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

**Response to Finding 8 –
Incorrect distribution of DUI fines**

Alameda County has revised the programming in the CUBS system to comply with statutory distribution requirements for DUI fines.

**Response to Finding 9 –
Incorrect distribution of controlled substance fines**

This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

**Response to Finding 10 –
Incorrect distribution of fish & game fines**

This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

**Response to Finding 11 –
Failure to implement distribution priority**

Alameda County has corrected its accounting system to allow prioritization in the distribution sequence of installment payments.

**Response to Finding 12 –
Failure to properly distribute multiple violations**

Alameda County has changed the programming in CUBS to process the distribution of multiple violations.

**Response to Finding 13 –
Deficiency in control over court records**

This finding affects the Superior Court only. The Alameda Superior Court should draft the response.

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>